IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS WACO DIVISION

WSOU INVESTMENTS LLC, *Plaintiff*

-V-

MICROSOFT CORPORATION, Defendant W-20-CV-00454-ADA W-20-CV-00461-ADA W-20-CV-00465-ADA

CLAIM CONSTRUCTION ORDER

The Court held a *Markman* hearing on March 11, 2021. During that hearing, the Court provided its final constructions for all terms except for "packet loss rate." After reviewing the parties' supplemental briefs regarding "packet loss rate," the Court now enters its final claim constructions.

SIGNED this 17th day of March, 2021.

ALAN D ALBRIGHT

UNITED STATES DISTRICT JUDGE

Term	Plaintiff's Proposed Construction	Defendants' Proposed Construction	Court's Final Construction
"active node(s)" ('702 Patent, Claim 1) [Proposed by Plaintiff]	"node(s) in an active state of AAA functionality"	"node(s) that carry out the AAA functions for the network by employing their respective user databases"	"node(s) in an active state of AAA functionality"
"monitoring the active nodes to determine if one of the active nodes gets disconnected from the network", "said active nodes monitoring one another to detect if an active node becomes disconnected from the network", and "monitoring the active nodes to detect if one becomes disconnected from the network" ('702 Patent, Claims 1, 11, 18) [Proposed by Defendant]	Plain and ordinary meaning	"two active nodes monitoring one another to detect if one becomes disconnected from the network"	Plain-and-ordinary meaning
"each of said nodes having a user database" ('702 Patent, Claim 18) [Proposed by Defendant]	Plain and ordinary meaning	"each of said nodes maintaining its own user database"	Preamble is limiting except for the phrase "A method of operating a wireless communication network." Plain-and-ordinary meaning.

Term	Plaintiff's Proposed	Defendants' Proposed	Court's Final Construction
	Construction	Construction	
"activating the AAA	Plain and ordinary meaning;	Indefinite	Not indefinite. Plain-and-
functions of the active nodes"	not indefinite		ordinary meaning.
('702 Patent, Claim 1)			
[Proposed by Defendant]			
"logging changes to the user databases for the active nodes thereby updating the same to reflect changes in information contained therein" and "wherein each of the active nodes logs changes to its user database thereby updating the same to reflect changes in information contained therein" ('702 Patent, Claims 9, 13, 18) [Proposed by Defendant]	Plain and ordinary meaning; not indefinite	Indefinite	Indefinite.

Term	Plaintiff's Proposed	Defendants' Proposed	Court's Final Construction
	Construction	Construction	
"selecting two or more	Plain and ordinary meaning	"selecting two or more	Plain-and-ordinary meaning.
parameters of a network" and		different types of parameters	
"measuring and/or calculating		of a network / measuring	
at two or more times values of		and/or calculating at two or	
the network parameters"		more times values of the two	
		or more different types of	
('160 Patent, Claim 1)		network parameters"	
[Proposed by Defendant]			
"network parameter"	Plain and ordinary meaning	"measurable service level	Plain-and-ordinary meaning
		specifications from which	wherein the plain-and-ordinary
('160 Patent, Claims 1, 3)		service indicator values can be	meaning includes, but is not
		determined"	limited to, parameters such as
[Proposed by Defendant]			"packet losses; time-delays
			between packets; jitter or
			stability; band width:
			bandwidth stability; and the
			directionality of the
			communication."

Term	Plaintiff's Proposed	Defendants' Proposed	Court's Final Construction
	Construction	Construction	
"determining at two or more	Plain and ordinary meaning	"computing [at two or more	Plain-and-ordinary meaning.
times the value of a service		times the value of a service	
indicator", "determining a		indicator / a trend of the	
trend of the indicator", and		indicator / a time of the service	
"determining as a function of		indicator crossing a defined	
the trend of the indicator"		threshold] using the [measured	
		and/or calculated parameter	
('160 Patent, Claim 1)		values / determined indicator	
		values / trend of the indicator]"	
[Proposed by Defendant]			
"service indicator"	Plain and ordinary meaning	"an indicator of the quality of a	Plain-and-ordinary meaning
		network service distinct from	wherein the plain-and-ordinary
('160 Patent, Claim 1)		the network parameters"	meaning is "an indicator of the
50 11 0 0 1 1			quality of a network service"
[Proposed by Defendant]			
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"determining as a function of	Plain and ordinary meaning	"determining as a function of	Plain and ordinary meaning
the trend of the indicator a		the trend of the service	
time of the service indicator		indicator the time remaining	
crossing a defined threshold"		for the indicator crossing a	
(21(0 P + + Cl : 1)		defined threshold"	
('160 Patent, Claim 1)			
[D 11 D. C. 1 . 4]			
[Proposed by Defendant]			

Term	Plaintiff's Proposed	Defendants' Proposed	Court's Final Construction
	Construction	Construction	
"network that branches, downstream of the collection point"	Plain and ordinary meaning	refers to a tree network	Plain-and-ordinary meaning
('902 Patent, Claims 1, 6)			
[Proposed by Defendant]			
"packet loss rate"	"the fraction of packets that are lost over a suitable time	"the fraction of packets that are lost over a suitable time-	"the fraction of packets that are lost over a suitable time-
('902 Patent, Claims 1, 6)	interval"	averaging interval"	averaging interval wherein the 'time-averaging interval' is an
[Proposed by Plaintiff]			interval of time over which an average is taken"